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NATIONAL WILDLIFE FEDERATION

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

GARFIELD COUNTY UTAH, a Utah
political subdivision; KANE COUNTY,
UTAH, a Utah political subdivision; and
THE STATE OF UTAH, by and through
its Governor, SPENCER J. COX, and its
Attorney General, SEAN D. REYES,

Plaintiffs,

ZEBEDIAH GEORGE DALTON;
BLUERIBBON COALITION; KYLE
KIMMERLE; and SUZETTE RANEA
MORRIS,

Consolidated Plaintiffs,

vs.

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States;
et al.,

Defendants,

**

Lead Case No. 4:22-cv-00059-DN

Member Case No: 4:22-cv-00060-DN

District Judge David Nuffer

Magistrate Judge Paul Kohler

HOPI TRIBE, NAVAJO NATION, PUEBLO OF ZUNI, UTE MOUNTAIN UTE TRIBE,	
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Intervenor-Defendants.	
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**UNOPPOSED MOTION BY NATIONAL WILDLIFE FEDERATION, UTAH
WILDLIFE FEDERATION, NEW MEXICO WILDLIFE FEDERATION, ARIZONA
WILDLIFE FEDERATION, AND COLORADO WILDLIFE FEDERATION FOR
LEAVE TO FILE AMICI CURIAE BRIEF**

The National Wildlife Federation, Utah Wildlife Federation, New Mexico Wildlife Federation, Arizona Wildlife Federation, and Colorado Wildlife Federation (proposed amici curiae) request leave to file an amici curiae brief in support of Intervenor-Defendant’s Motion to Dismiss (ECF No. 114) and Defendant’s Motion to Dismiss Amended Complaints (ECF No. 113).

I. Proposed Amici Curiae’s Interest in the Litigation

Established in 1936, the National Wildlife Federation (NWF) is the largest non-profit conservation organization in the United States. Working in seven regions across the country, NWF collaborates with 52 state and territory affiliates to increase America’s fish and wildlife populations and enhance their capacity to thrive in a rapidly changing world. NWF works to protect critical wildlife habitat by gathering and developing the best available science on wildlife, engaging other stakeholders, advocating for important conservation policy, and coordinating conservation planning efforts.

NWF and its more than 7 million members and supporters have a strong interest in ensuring that the Bears Ears National Monument and Grand Staircase-Escalante National Monument (the “Monuments”), and the wildlife and habitat these monuments contain, remain protected consistent with the Antiquities Act. In 2021 and 2022, NWF members submitted a total of 21,006 comments

to the Department of the Interior, U.S. Forest Service and the White House to encourage greater protections for the Monuments. NWF also recently submitted formal comments on the proposal to prepare or revise management plans for the Monuments. Further, NWF members frequently visit the Monuments to hunt, fish, hike, backpack, observe wildlife, and explore the unique geology, ecology, and cultural history of these areas. *See* TJ Brown, *National Wildlife Federation Members, Supporters Share Experiences, Speak Out for National Monuments*, NATIONAL WILDLIFE FEDERATION (May 9, 2019).

NWF and its members also value and appreciate the cultural and spiritual ties that many Indigenous Peoples in this region have to these landscapes and regularly advocate for Tribal coordination, consultation, and co-management of the Monuments. *See* Mary Jo Brooks, *Fighting to Preserve Bears Ears: The Bears Ears Inter-Tribal Coalition*, NATIONAL WILDLIFE FEDERATION (May 21, 2019); Mike Saccone, *Bears Ears Plan ‘Salt in the Open Wounds’ of Tribes, Risks Irrevocable Harm to the Land, History, Wildlife*, NATIONAL WILDLIFE FEDERATION (July 26, 2019).

In addition, NWF curates numerous blogs and circulates articles explaining the importance and value of protected lands, including the Monuments. *See e.g.* Paul Tolmé, *More Than Majesty: From sea to shining sea—and beyond—the United States’ 157 national monuments are havens for wildlife conservation, outdoor recreation and preservation of indigenous cultures*, NATIONAL WILDLIFE MAGAZINE (Jun. 1, 2018); Chamois Andersen, *Bears Ears National Monument: Of Spirit and Nature*, NATIONAL WILDLIFE FEDERATION (Oct. 15, 2021); Mary Jo Brooks, *Final Plans Will Decimate Land, Water, Wildlife in Bears Ears and Grand Staircase-Escalante* (Feb. 6, 2020).

The Utah Wildlife Federation (UWF) works to conserve wildlife and its habitats; protect public access to outdoor recreation, hunting, and angling; and promote education, and conservation opportunities on public lands and waters in Utah, now and for future generations. UWF's members visit and recreate at the Monuments and value the wildlife, habitats, cultural resources and wild landscapes found there. UWF works with government officials and stakeholders to identify ways of protecting and restoring landscape connectivity across the state, including in and around the Monuments.

As Colorado's oldest and most effective wildlife conservation group, Colorado Wildlife Federation (CWF) works to safeguard the state's wildlife and habitats on public lands: their winter ranges, migration and movement corridors, reproduction areas, summer ranges and waterways they depend upon to survive. CWF members regularly travel to both Monuments to hike, recreate, and view wildlife. Moreover, CWF supports the recent designation of the Camp Hale-Continental Divide National Monument, which may see legal challenges if Plaintiffs are successful in this case. Colorado Wildlife Federation, *Camp Hale-Continental Divide Designated as a National Monument* (Mar. 7, 2023), <https://coloradowildlife.org/camp-hale-continental-divide-designated-as-a-national-monument/>.

The Arizona Wildlife Federation's mission is "educating, inspiring, and assisting individuals and organizations to value, conserve, enhance, manage, and protect wildlife and wildlife habitat in Arizona." This includes the Paunsaugunt mule deer herd, whose members migrate through Grand Staircase-Escalante National Monument to move between summer range in Utah and winter habitat in northern Arizona. *See infra* p. 11-12. AWF and its members have an interest in safeguarding the migratory movements and overall health of the Paunsaugunt mule deer

herd, which could be harmed if the Grand Staircase-Escalante National Monument was reduced or invalidated.

Since 1914, the New Mexico Wildlife Federation (NMWF) has been advocating for sound wildlife management, access to public lands, protection of our waters, and provided opportunities to pursue the outdoor traditions that helped make America what it is today. As part of these efforts, NMWF has also advocated for the protection of Bears Ears National Monument. Following a visit to the monument in 2017, NMWF recognized that “this area provides not only an amazing opportunity for sportsmen and outdoor recreationalists, but is also sacred to many tribes throughout the area who deeply value the land, water and wildlife within the National Monument.” New Mexico Wildlife Federation, *Bears Ears National Monuments Attendees and Statement of Purpose* (Nov. 20, 2017).

CFW, NMWF, and AWF have interests in the protection of wildlife and wildlife habitat across the region. Wildlife, especially migrating big game, do not recognize political boundaries and move long distances across the landscape to seasonal habitats and breeding grounds. As a result, impacts to wildlife and habitat within the Monuments may impact the ability of CWF, NMWF and AWF members to hunt, view, and enjoy wildlife within their own states.

Further, Utah, Colorado, New Mexico, and Arizona contain numerous national monuments in which CWF, UWF, NMWF, AWF and their members have interests that may be subject to legal challenge if Plaintiffs are successful in this case. Moreover, the traditional and ancestral homelands of the Intervenor-Defendants span these four states. *See* Int.-Def.’s Mot. Dismiss at 11, ECF No. 114. These organizations support and advocate on behalf Tribes and Indigenous Peoples with

spiritual and cultural ties to the Monuments and the region, and seek to continue these efforts with the filing of this brief.

II. The Usefulness of Proposed Amici Curiae's Memorandum to the Disposition of the Case

Expanding on the arguments presented in Intervenor-Defendants' Motion to Dismiss, including Section IV.D.iii, and Federal Defendants' Motion to Dismiss, including Section VI.B, this memorandum provides additional explanation of the broad authority presidents have to protect wildlife and their habitat as objects of scientific interest under the Antiquities Act and the longstanding and consistent presidential practice of doing so. Further, this brief explores a selection of species found in the Monuments, illustrating the scientific interest and import of these objects.

III. Whether the Parties Consent to the Filing of the Memorandum

Plaintiffs, Consolidated Plaintiffs, and Intervenor-Defendants consent to the filing of this memorandum. Federal Defendants take no position.

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For the foregoing reasons, the proposed amici curiae respectfully request this Court grant them leave for the filing of the amici brief attached as Exhibit A. A proposed order to this effect is attached as Exhibit B.

DATED this 16th day of March, 2023.

Respectfully submitted,

NATIONAL WILDLIFE FEDERATION

/s/ Bailey K. Brennan

Bailey K. Brennan (admitted *pro hac vice*)
Attorneys for Proposed Amici Curiae

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/s/ Stephen P. Horvat

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